

SIROTE  
— & —  
PERMUTT  
A PROFESSIONAL CORPORATION

2311 HIGHLAND AVENUE SOUTH  
POST OFFICE BOX 55727  
BIRMINGHAM, ALABAMA 35255-5727  
TELEPHONE (205) 930-5100  
FACSIMILE (205) 930-5101

RECEIVED  
CENTRAL FAX CENTER  
MAY 17 2005

## FAX COVER SHEET

Date: May 17, 2005

Client/Matter #: 47040-1

RECIPIENT INFO	Name:	Examiner Carolyn T. Blake	Fax #:	703-872-9306
			Long Distance?	<input type="checkbox"/> No <input type="checkbox"/> Yes
	Company:	USPTO	Telephone #:	

SENDER INFO	From:	C. Brandon Browning	Telephone #:	(205) 930-5141
	Location:	Birmingham	Fax #:	(205) 930-5101

MESSAGE	<u>Response to Office Action attached re: 10/699,421</u>

Number of Pages (Including Cover Sheet): 5

If you do not receive all pages, please call (205) 930-5240.

Original documents:

- ☒ will not follow unless requested  
☐ will follow by mail  
☐ will follow by courier

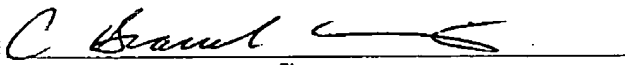
Return FAX to:

Office #: 338

Extension #: 5141

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone and return the original message to us at the above address via the U.S. Postal Service. Thank you.

C:\Program Files\Microsoft Office\Templates\S&amp;P\FaxCover.dot

<b>AMENDMENT TRANSMITTAL LETTER (Small Entity)</b>				Docket No. <b>047040-00001</b>	
Applicant(s): <b>Eddie Lane Smitherman</b>					
Application No. <b>10/699,421</b>	Filing Date <b>10/31/2003</b>	Examiner <b>C.T. Blake</b>	Customer No. <b>26359</b>	Group Art Unit <b>3724</b>	Confirmation No. <b>2070</b>
Invention: <b>TREE TRIMMER</b>					
<b><u>COMMISSIONER FOR PATENTS:</u></b>					
Transmitted herewith is an amendment in the above-identified application.					
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27					
The fee has been calculated and is transmitted as shown below.					
<b>CLAIMS AS AMENDED</b>					
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	54 -	54 =	0	x \$25.00	\$0.00
INDEP. CLAIMS	7 -	7 =	0	x \$100.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
<b>TOTAL ADDITIONAL FEE FOR THIS AMENDMENT</b>					<b>\$0.00</b>
<input checked="" type="checkbox"/> No additional fee is required for amendment. <input type="checkbox"/> Please charge Deposit Account No. _____ in the amount of _____ <input type="checkbox"/> A check in the amount of _____ to cover the filing fee is enclosed. <input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. <b>501346</b> <input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16. <input type="checkbox"/> Any patent application processing fees under 37 CFR 1.17. <input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached. <b>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</b>					
 _____ Signature			Dated: <b>5/17/2005</b>		
<b>C. Brandon Browning, Reg. No. 44,570</b> <b>Sirote &amp; Permutt, P.C.</b> <b>PO Box 55727</b> <b>Birmingham, AL 35255-5727</b> <b>205-930-5141</b> <b>Fax: 205-930-5101</b>			I certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ _____ (Date) _____ Signature of Person Mailing Correspondence _____ Typed or Printed Name of Person Mailing Correspondence		
CC:					

P11SMALL/REV09

**RECEIVED**  
**CENTRAL FAX CENTER**  
**MAY 17 2005**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re: Application of	)	
	)	
Eddie Lane Smitherman	)	Examiner: Carolyn T. Blake
	)	
U.S. Serial No. 10/699,421	)	Group Art Unit: 3724
	)	
Filed: October 31, 2003	)	Confirmation No. 2070
	)	
For: TREE TRIMMER	)	

-----  
Post Office Box 55727  
Birmingham, Alabama 35255-5727  
May 17, 2005

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**RESPONSE**

Madame:

This is in response to the Office action mailed May 4, 2005.

The examiner requires restriction to one of the following inventions pursuant to 35

U.S.C. §121:

- I. Claims 1-20, 28-37, and 48-52 drawn to a tree trimmer, classified in class 30, subclass 388.
- II. Claims 21-27, drawn to a support system, classified in class 248, subclass 637.

DOCSBHM\1295834\1\

III. Claims 38-41 and 53-54, drawn to a method of trimming, classified in class 83, subclass 13.

IV. Claims 42-47, drawn to a method of converting an existing means of transportation into a tree trimming apparatus, classified in class 30, subclass 123.

In reply to the restriction requirement of May 4, 2005, applicant elects Invention I, claims 1-20, 28-37 and 48-52, drawn to a tree trimmer, classified in class 30, subclass 388.

In view of applicant's election of Invention I above, the examiner further requires restriction to one of the following patently distinct species:


V. A tree trimmer wherein linear movement is prevented between the boom and the arm: and

VI. A tree trimmer wherein pivotal movement is prevented between the boom and the arm.

In response thereto, applicant elects Invention V, as described in claims 2, 28-37 and 51.

Respectfully submitted,

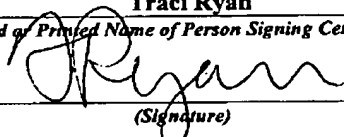
SIROTE & PERMUTT, P.C.

By:   
C. Brandon Browning  
Reg. No. 44,570  
205-930-5141

CBB:tr

DOCSBHM\1295834\1\

2

<b>CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)</b>			<b>Docket No.</b>
Applicant(s): Eddle Lane Smitherman			047040-00001
<b>Application No.</b> 10/699,421	<b>Filing Date</b> 10/31/2003	<b>Examiner</b> C.T. Blake	<b>Group Art Unit</b> 3724
Invention:  <b>TREE TRIMMER</b>			
<p>I hereby certify that this <u>Response to Office Action, authorization to charge deposit account</u> (Identify type of correspondence)</p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>703-872-9306</u>)</p> <p>on <u>5/17/2005</u> (Date)</p> <p style="text-align: center;"><u>Traci Ryan</u> (Typed or Printed Name of Person Signing Certificate)</p> <p style="text-align: center;"> (Signature)</p> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p>			

P18/REV02